HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.7912 OF 2002

DATED: 23.9.2005

Between:

V. Sambamurthy and others

… Petitioners

and

The Chairman and Managing Director,

A.P. Power Generation Corporation,

Vidyutsoudha, Somajiguda,

Hyderabad and another

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.7912 OF 2002

ORDER:

Petitioners, 47 in number, are employees of the Vijayawada Thermal Power Station, A.P. Genco Limited, Ibrahimpatnam. All the petitioners claim to have been temporarily appointed under the subordinate services non-statutory rules, as Mazdoors on various dates from 1976 to 1990. They had severally put in 10 to 20 years of service as Man-Mazdoors. Thereafter, they were all appointed on a regular basis as Mazdoors, with effect from 6.12.1996, and were put on probation from the said date for a period of 2 years, vide proceedings of the 2nd respondent dated 18.3.1998. After having satisfactorily completed the period of probation, their services were also considered as approved probationers. Despite the same, the petitioners complain, as apparent from the order of the 2nd respondent dated 31.1.2000, the respondents have put a condition that the petitioners shall not be entitled to any monetary benefits from the date of their regular appointment to the category of Mazdoors. The petitioners claim two distinct reliefs:

(a). for regular salary and emoluments with effect from 6.12.1996, the date from which all the petitioners were regularly appointed as Mazdoors, and

(b). for regularization of services and all consequent benefits on such regular treatment of services with effect from the petitioners' respective initial dates of temporary appointment. Whether the petitioners are entitled to either or both these reliefs is the question in this writ petition.

In so far as the first aspect of the petitioners claim is concerned, namely; whether they are entitled to salary and emoluments with effect from 6.12.1996, we now consider.

A counter affidavit, filed on behalf of the respondents by the Deputy Secretary (Legal), A.P. Genco, states that the petitioners were absorbed as Mazdoors with effect from 6.12.1996 with pecuniary benefits with effect from 9.12.1997, as per the

orders of the A.P.S.E. Board, vide B.P.Ms.No.326, dated 14.3.1998. As the petitioners had given an undertaking, as per B.P.Ms.No.272 dated 31.12.1997, accepting the terms and conditions of absorption, the petitioners are not entitled to claim benefits other than what they are eligible, as per B.P.Ms.No.272, is the contention. It is also contended that they are only entitled to monetary benefits from 9.12.1997.

This stance adopted by the respondents is wholly unfair and illegal. As the petitioners are regularized with effect from 6.12.1996 as Mazdoors, they should be entitled to all benefits including pecuniary benefits, seniority, and such like, with effect from the date from which they were so regularized i.e. 6.12.1996. If this is not done, the petitioners may legitimately claim hostile discrimination as other regular employees of the respondent-Corporation at several levels, i.e. lower, medium, higher and executive levels, should also be denied regular scales of pay, increment and other benefits for the periods of their respective probation. Learned Standing Counsel for the respondents states that the underlying policy of denying the petitioners pecuniary benefits for a period of one year from 6.12.1996 to 9.12.1997 is that the petitioners are on probation during that period. The respondents do not state that it is the respondents' administrative policy to deny pecuniary benefits during the period of probation for all cadres.

On the above analysis, this court holds that the petitioners shall be entitled to all pecuniary benefits, salary, emoluments, and the like, from the date of their initial regular service as Mazdoors i.e. with effect from 6.12.1996.

Regarding the other claim of the petitioners for seniority, continuity of service, salary and emoluments from the respective dates of the petitioners' initial casual appointment to service, this court finds the said claim without merits. No principle of law has been buttressed in support of their claim. Mere desire of claimants does not translate into a legal right. A legal right is a foundation for the issuance of

Mandamus. The petitioners' regularization is pursuant to a policy of the respondent-Corporation for regularization of casual employees. That policy has extended the benefit of regularization to the petitioners, only with effect from 6.12.1996. Retrospective regularization of the petitioners' services with effect from their dates of initial appointment into service is not the establishment policy of the respondent-Corporation and there is no legal obligation of the respondents to give the petitioners such benefit.

On the above analysis, the writ petition is allowed to the extent of directing the respondents to pay the petitioners salary, emoluments, and other benefits with effect from their initial dates of regular service as Mazdoors, with effect from 6.12.1996. The respondents shall expeditiously compute and pay the monetary benefits of this component to the petitioners, and at any rate, within a period of six weeks from the date of receipt of a copy of this order. In this, the respondents shall fail not. No order as to costs.

GODA RAGHURAM, J

Date: 23.9.2005

cvm